IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 637 OF 2005

Akasha Syncotex Ltd. ..Petitioners.

Vs.

Ankita Knitwear Pvt. Ltd. ..Respondents.

Mr.V.P. Vaze for the Petitioners.

Mr.Pareiva i/b.M/s.Legal Associates for the Responents.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD FEBRUARY, 2006

P.C. :

According to the Petitioners, the Respondent Company is indebted to it in the sum of Rs.73,424/- at the foot of the account. The account is maintained in respect of job work done by the Petitioners in respect of the Respondent Company.

2. The Petitioners have annexed some bills to the petition. The claim however is at the foot of the account. In paragraph 4 of the petition, the Petitioners have stated that the claim is at the foot of the account and has craved leave to refer to and rely upon the account.

3. The transactions themselves are not denied by

the Respondent Company. The Respondents by their letter dated 3.12.2003 have stated that no amount was due and payable. In support of their case, the Respondents have enclosed a statement of the account maintained by them. According to the Respondents, no amount was due and payable in view of various deductions made by them inter-alia towards cash discount at 3%, brokerage at 2%, transport etc. The Respondents have also claimed a credit of Rs.53,511/- being aggregate amount of the discount at the rate of Rs.3/- per kg. and of a sum of Rs.13,250/- towards the transport cost.

4. There is nothing on record which indicates that the deductions were authorised. In fact, by a letter dated 29.3.2004 the Petitioners stated that the deductions were unauthorised. There is no reply to the said letter. The affidavit in reply also does not indicate as to how these deductions were authorised. The only deduction that is admittedly authorised is towards T.D.S. and credit for the same has been given.

5. In the circumstances, there is no defence to the Petitioner’s claim. I, however, do not intend admitting the petition without giving Company, an

opportunity of making payment.

6. In the circumstances, the following order is passed :

i) In the event of the Company paying to the Petitioners a sum of Rs.73,424/- on or before 20.4.2006, the petition to stand dismissed.

ii) In case of failure on the part of the Company in paying the aforesaid amount, the petition shall stand admitted and to be advertised in Free Press Journal, Navshakti and Maharashtra Government Gazette. In that event, the Petitioner to deposit an amount of Rs.2,000/- with Prothonotary and Senior Master of this Court within four weeks from the date of default.

All parties to act on a certified copy of this order.